

SPECIAL CIVIL APPLICATION No 5874 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? -
 2. To be referred to the Reporter or not? - :
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? -
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? -
 5. Whether it is to be circulated to the Civil Judge? : NO
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KHETIVADI UTPANNA BAJAR SAMITEE

Versus

STATE OF GUJARAT

Appearance:

MR JITENDRA M PATEL for Petitioner

MR ND GOHIL, AGP for Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 29/12/1999

ORAL JUDGEMENT

This petition has been filed for quashing the order dated 20-7-1988 Annexure-B passed by the Additional Chief Secretary, Revenue Department (Appeal), Gujarat State, Ahmedabad in Revision Application No. SRD/JMN/VDD/99/87.

2. The learned advocate for the petitioner states

that in para 9 of the petition it is stated that the petitioner has received notice of hearing dated 27-5-1988 fixing the hearing at Ahmedabad on 17-8-1988 and the copy of the said notice of hearing is annexed at Annexure-A to the petition. It is further stated that the Revision Application was rejected vide the order dated 20-7-1988. The date 17-8-1988 was fixed for hearing the revision application. But the revision application was dismissed on 20-7-1988. Hence, the petitioner had no opportunity to argue his case before the Addl. Chief Secretary, Revenue Department (Appeal), Gujarat State. The order passed by the respondent in Revision Application behind him is in violation of the principles of natural justice and hence it requires to be quashed and set aside and the matter be remanded back to the respondent no. 1 for hearing and deciding on merits afresh after affording reasonable opportunity of hearing to the parties concerned.

3. Heard learned counsel for the State Mr. N.D. Gohil. Learned Counsel for the State could not controvert the facts stated by the learned counsel for the petitioner.

4. In the facts and circumstances of the case, this petition is liable to be allowed and the order of the Addl. Chief Secretary, Revenue Department (Appeal), Gujarat State, Ahmedabad dated 20-7-1988 is liable quashed and set aside.

5. Accordingly, this petition is allowed and the impugned order dated 20-7-1988 passed by the Addl. Chief Secretary, Revenue Department (Appeals), Gujarat State, Ahmedabad is hereby quashed and set aside and the matter is remanded back to the respondent no. 1 Addl. Chief Secretary, Revenue Department (Appeals), Gujarat State, Ahmedabad and he shall hear and decide the same afresh on merits after giving reasonable opportunity of hearing to the parties concerned, within three months from the date of presentation of a certified copy of this order. Rule is made absolute to the aforesaid extent, with no order as to costs. Interim relief, if any, stands vacated.

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/JVSatwara/